

Mayor Mary Cooper called the meeting to order at 7:00 p.m. Also present were Councilmembers Kay Carlquist, Bill Seuell, Robert Jurca, and Guy Pfalzgraff, along with City Manager Lanny Sloan and City Attorney Mike Schottelkotte. A meeting notice was posted in the south window at City Hall at least twenty-four hours prior to the meeting.

**Pledge of Allegiance**

The Mayor led everyone present in the Pledge of Allegiance.

**Changes to the Agenda**

There were none.

**Minutes**

It was moved by Councilmember Carlquist and seconded by Councilmember Seuell to approve the minutes of May 20, 2008 as submitted by the Clerk. All in favor, motion carried.

**Oath of Office: City Clerk Jolene E. Nelson**

City Clerk Mary Lynn Williams gave the Oath of Office to new City Clerk Jolene Nelson.

Mayor Cooper presented Ms. Williams with a plaque recognizing her retirement.

**Citizen Comments**

Phil Schmidt from Redlands Mesa north of Hotchkiss stated that he is the general manager for Phillips Machine. Mr. Schmidt wanted to introduce himself and explained that Phillips Machine serves the mining industry. They are glad to be coming to Delta.

Bridgette Vaisvil at 1260 16<sup>th</sup> Street addressed concerns about traffic in her area. Ms. Vaisvil stated that she has been trying to get City sewer and would like some help getting that done. She also stated that she is having problems with waste water coming from the Cunningham Orchards. Ms. Vaisvil asked if there is going to be a Code Enforcement Officer soon.

**Public Hearing: Appeal of April 7<sup>th</sup>, 2008 Planning Commission Decision on Mason Variance/Change in Non-Conforming Use Request**

Mayor Cooper recessed the regular meeting and opened a public hearing on an appeal of the April 7<sup>th</sup>, 2008 Planning Commission Decision on the variance and non-conforming use request from Brian Mason.

Community Development Director Glen Black explained that Planning Commission reviewed these requests at their April 7, 2008 and approved these requests. City staff requested that the City Manager appeal those decisions and that is what is in front of Council tonight.

The applicant, Brian Mason, applied to incorporate an addition to the cinder block building and enclose the open warehouse into one building to be used for office space located at 111 W. 3<sup>rd</sup> Street. As staff reviewed the application, it became clear that two separate issues were involved by this application.

1. Enclosing the open warehouse: the warehouse was allowed to be constructed through the approval of a variance by the City of Delta. The variance allowed the building to be constructed adjacent to the alley which normally requires a ten foot (10') setback. Enclosing the building will require approval of a change in non-conforming use.
2. Expanding or enlarging the cinder block building south toward 3<sup>rd</sup> Street as proposed will require allowing new construction in the ten foot (10') setback. Approval to build within the setback is considered under the variance process.

Mr. Black presented slides showing where the property is located.

Public Work Director Jim Hatheway stated that staff's primary concern is that the City needs to protect setbacks so that employees can work safely and be cost effective. Mr. Hatheway presented slides showing those concerns.

**Regular Meeting, Delta City Council, June 3, 2008 (Cont.)**

**Public Hearing: Mason Variance/Change in Non-Conforming Use Request (cont.)**

Mr. Hatheway and Mr. Black answered questions from Council on what the City is appealing.

Mr. Black explained that there was an Agreement and Declaration of Covenants that was issued when the City approved the variance in 1998 that release the City from any claim for damages caused by excavation or other operations of the City in the adjacent alley. He stated the concerns if the applicant were to close in the warehouse.

Mayor Cooper asked the applicant, Brian Mason, to present his case.

Brian Mason stated that he purchased the buildings last year. His intent was to move a real estate office in there and subdivide the building up into uses that would fall under a B-1 zoning which would mainly be offices. Under B-1 zoning warehouses are not allowed, so it seems confusing. In 1998 ACE Hardware needed more storage and applied for a variance and it was granted by the City for the setbacks. There is a need for professional office space. Mr. Mason stated that they want to come up with something professional that fits within the B-1 zoning and what exists around them.

Mr. Mason explained what their plans are on the expansion of the cinder block building. He stated that he realizes the concerns on the setbacks. They are agreeable to signing a release of liability. As the building exists now, they have no use for it. He stated that they would be willing to redesign their plans to be within what the City would allow.

Staff answered questions from Council regarding which utilities are in the alley.

Mr. Mason explained all the upgrades that they have done to this building.

Larry Francis, contractor for Brian Mason, explained how they would design the building to have the doors open back into the building and not into the alley. He also explained how they would make the building look a little more appealing.

Mr. Black stated that there is still a lot of work to be completed if Council were to approve this request as far as the building permits. There are concerns about the windows facing the alley and parking lot. He explained he wants Council to be aware that there may be further agreements that may be required to get this project done.

Barbara Sanford, one of the owners of the Delta House, stated that they support the request to enclose the warehouse so that they have a nicer building to look at and for the security concerns.

Mr. Black answered questions from Councilmember Seuell regarding the warehouse and the setbacks on the cinder block building.

There was more discussion on variances and non-conforming use.

Mayor Cooper asked for any further public comments. Receiving none, she closed the public hearing and reconvened the regular meeting.

Council discussed their concerns on the setbacks.

It was moved by Councilmember Carlquist and seconded by Councilmember Pfalzgraff to approve the applicant's request for a change in non-conforming use to enclose the open warehouse to create offices. All in favor, motion carried.

It was moved by Councilmember Jurca seconded by Councilmember Carlquist to deny the applicant's request to expand the cinder block building with the 10 foot setback. All in favor, motion carried.

Attorney Michael Schottelkotte asked if Council is requesting any conditions to the grant of the non-conforming use application.

It was moved by Councilmember Pfalzgraff and seconded by Councilmember Carlquist to amend the previous motion to include a hold-harmless clause to be drafted by the City Attorney. All in favor, motion carried.

## **Regular Meeting, Delta City Council, June 3, 2008 (Cont.)**

### **Request from Delta Area Development for Financial Support to bring Phillips Machine West to Delta**

City Manager Lanny Sloan stated that Delta Area Development has requested funds in the amount of \$20,000 to help offset sewer and water fees for Phillips Machine West, Inc., a manufacturer business, that is planning to move to the City of Delta. The Council has budgeted \$20,000 to be used for economic development by DADI in their efforts to bring new jobs to Delta.

It was moved by Councilmember Carlquist and seconded by Councilmember Seuell to approve the request from DADI to provide \$20,000 to offset sewer and water tap fees for Phillips Machine West, Inc. All in favor, motion carried.

### **Resurfacing Bid for Cleland Park Tennis Courts**

Parks Director Paul Suppes explained that the Parks Department has been in the process of maintaining the tennis courts at Cleland Park for the last three years by contracting with a local contractor. The tennis courts have some cracks that need some repair to prevent non-repairable damage from occurring. Ms. Suppes stated that Signature Tennis Courts presented a bid in the amount of \$22,495.00 which is within the amount budgeted for this project.

Mr. Suppes answered questions from Council regarding the process for the repairs and warranties.

It was moved by Councilmember Pfalzgraff and seconded by Councilmember Carlquist to have the City Manager prepare and enter into contract with Signature Tennis Courts for the resurfacing of Cleland Park Tennis Court for the sum of \$22,495.00. All in favor, motion carried.

### **City Attorney Comments**

There were none.

### **City Manager Comments**

City Manager Lanny Sloan wanted to invite everyone to retirement party for Lynn Williams to be held at Bill Heddles Recreation Center from 4 to 6pm on Friday. He also wanted to welcome the new City Clerk Jolene Nelson.

### **Councilmember Comments**

Councilmember Carlquist asked if there have been any dates established for the retreat.

Councilmember Seuell wanted to congratulate the Bill Heddles Recreation Center on a great success with the fishy derby.

Councilmember Jurca welcomed new City Clerk Jolene Nelson.

Councilmember Pfalzgraff also welcomed the new City Clerk.

Mayor Cooper stated that she has heard great things about the new golf pro.

### **Executive Session**

It was moved by Councilmember Carlquist and seconded by Councilmember Jurca to convene an Executive Session for the purpose of determining positions relative to matters that may be subject to negotiations, developing strategy for negotiations, and/or instructing negotiations, pursuant to CRS Section 24-6-402(4)(e); or more specifically to discuss the possible purchase of property for the alternate truck route right-of-way.

At 8:03 p.m., the Regular Meeting was recessed. The Executive Session was convened a short time later.

At 8:18 p.m., the Mayor reconvened the Regular Meeting and announced that the Executive Session had been concluded. She stated that in addition to herself, the participants in the Executive Session were Councilmembers Robert Jurca, Bill Seuell, Guy Pfalzgraff and Kay Carlquist, along with City Manager Lanny Sloan, Assistant City Manager Steve Glammeyer, and

**Regular Meeting, Delta City Council, June 3, 2008 (Cont.)**

**Executive Session (cont.)**

City Clerk Jolene Nelson. For the record, the Mayor asked any person participating in the Executive Session who believed that any substantial discussion of any matter not included in the motion to go into Executive Session occurred during Executive Session in violation of the Open Meetings Law, to state his or her concerns for the record. No concerns were stated.

The meeting was immediately adjourned.

---

Jolene E. Nelson, City Clerk